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QUESTION OF THE VIOLATION OF HUMAN RIGHTS AND FUNDAMENTAL FREEDOMS IN ANY PART OF THE WORLD, WITH PARTICULAR REFERENCE TO COLONIAL AND OTHER DEPENDENT COUNTRIES AND TERRITORIES

Summary or arbitrary executions

Report by the Special Rapporteur, Mr. S. Amos Wako, pursuant to Economic and Social Council resolution 1988/38

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CONTENTS

Chapter		Paragraphs	Pages
	Introduction	1 - 5	1
I.	ACTIVITIES OF THE SPECIAL RAPPORTEUR	6 - 21	2
	A. Consultations	6	2
	B. Communications	7 - 20	2
	C. Joint hearings on southern Africa	21	3
II.	SITUATIONS.....	22 - 293	4
	A. General	22 - 23	4
	B. Country situations	24 - 293	4
III.	ANALYSIS OF THE PHENOMENON	294 - 310	58
	A. Remedial and/or preventive measures for the protection of the right to life: international standards	294 - 298	58
	B. Co-ordination and co-operation of mechanisms	299 - 310	59
IV.	CONCLUSIONS AND RECOMMENDATIONS	311 - 316	62

Indonesia

135. On 7 November 1988, a cable was sent concerning alleged cases of imminent execution. According to the information received, two prisoners named Jayari and Sukarjo, sentenced to death for their alleged involvement in the 1965 coup attempt were executed during the night of 15/16 October 1988. Fears were expressed to the Special Rapporteur that other prisoners sentenced to death on similar charges might be facing imminent execution. The names of 11 prisoners were mentioned.

136. The Special Rapporteur, recalling his previous appeal made on 3 June 1985 for the life of those sentenced to death in connection with the above-mentioned coup attempt, requested information on the present status of legal proceedings concerning the prisoners mentioned above.

137. On 28 July 1988, a letter was sent transmitting the allegation that, during the past several years, a number of persons had been killed in East Timor by Indonesian military personnel. Thirteen alleged cases of such killings (10 in 1986 and 3 in 1987) were described by way of examples. In addition, the letter transmitted the allegation that during 1986 and 1987 several persons had died in police or military custody. The following seven cases were described by way of example:

(a) Leman bin Idris died following a disturbance in Salemba prison in 1986 during which he was allegedly kicked and beaten. In August 1987, two prison officials were convicted by the East Jakarta District Court of causing slight injuries to the prisoner and were sentenced to suspended sentences of 3 years and 18 months' imprisonment;

(b) Ferdinand Tarigan died in Simulangun police station on 5 November 1986. His body was said to have borne marks of torture, but the police was reported to have announced that he hanged himself in the police station lavatory. Although the arrest of the Chief of the Simulangun police station and three other police officers was ordered, no charges had been filed by April 1987;

(c) Joni Silvester Hoban, from Cengkaren, West Jakarta, died in hospital on 12 April 1987 after having been arrested on 1 April 1987 by the local military district command (Koramil) and released on the following day. He was alleged to have died as a result of injuries following ill-treatment in the Koramil;

(d) Nasehat bin Slamet died on 8 July 1987 allegedly on the way to hospital from the police station in South Jakarta after having been arrested on 7 July 1987. His body was said to have borne marks of torture;

(e) Umar Marjuki from Pilar in Karang Asing, Cikajang, West Jawa (Java), died on 9 September 1987 on the way to hospital from the Bekasi main police station, after having been arrested on 7 September 1987. The police were reported to have stated that he had been attacked by other prisoners;

(f) Saipin bin Pulo was found dead on the night of 21/22 October in the Citarum River after having been arrested on 19 October 1987 and taken to the Muara Gembong police station. The police subsequently denied that Saipin had ever been detained;

(g) Paijan, alias Buang, died on 2 December 1987 in the police station in Tanah Jawa, after having been arrested on 30 November 1987 by the Tanah Jawa Koramil and taken to the district office in Afdeling 1, where he had allegedly been tortured.

138. The Special Rapporteur requested information on the above-mentioned allegations and in particular on any investigations of those cases, including autopsies, and any measures taken by the authorities to bring those responsible to justice and prevent further occurrence of such deaths.

139. On 4 January 1989, a reply was received from the Government of Indonesia stating that, with regard to the prisoners involved in the 1965 attempted coup, the sentences of those convicted of treason were carried out in total conformity with the due process of the law and in accordance with Indonesian criminal law and procedures. It was also stated that, throughout the trials of the defendants who were involved in the abortive coup, the courts had adhered to and implemented, inter alia, the principles of presumption of innocence, rule of law, open and public trial, fair composition of the court, and guarantee of the rights of the defendant to legal counsel and to appeal for clemency. It was further stated that the trials were indeed fair and open to the public and the press, that those convicted had had the right to appeal for clemency to the President of the Republic and that their appeals had been rejected on the grounds of the gravity of the crimes, as they had been directly involved in instigating and carrying out the abortive coup which had resulted in considerable loss of life and inflicted much suffering on the Indonesian people. According to the reply, the seemingly long delay in carrying out the executions was due to the time needed by the judiciary and the executive to ascertain that justice was really upheld. It was also stated that the magnitude of the crimes, which involved several thousand persons, required a considerable time for trial and clemency proceedings, and that, in fact, the defendants were afforded every legal avenue. It was further stated that the sentences were carried out only after all legal recourse had been completely exhausted and after those convicted were given the opportunity of meeting their families and relatives and that their burials were carried out in accordance with their religious beliefs. In conclusion, it was stated that the Government firmly believed that there was no question of summary or arbitrary execution.

140. On the same day, another reply was received with regard to the situation in East Timor, stating that the true situation prevailing there was as shown by the findings of humanitarian organizations, such as the International Committee of the Red Cross (ICRC). The reply also mentioned the findings of the Chief Minister of the Australian Northern Territory who had led a delegation of officials, journalists and Timorese to the province of East Timor from 9 to 11 November 1988. It was stated that the party had found no repression, no starvation and no restrictions on freedom of movement and religion. The reply also referred to "the United States State Department's categoric rejection of the allegations by a number of United States Congressmen and Senators of abuses of human rights in East Timor". It was also stated that the province had been officially opened as of 1 January 1989 and thus East Timorese residents were free to travel without restriction and entry restrictions for outsiders had been lifted.

141. On 13 January 1989, the Special Rapporteur met the Permanent Representative of Indonesia to the United Nations Office at Geneva.